

REMARKS

Reconsideration of the application is respectfully requested.

I. Status of the Claims

Claims 1-8 are pending and presented herein as a courtesy to the Examiner.

II. Telephone Conference

Applicant thanks the Examiner for all the courtesies extended to Applicant's representative, Louis DeJuidice, on June 16, 2004. Meyers and the claims were discussed and the Examiner suggested that claims are distinguishable over Meyers.

II. Rejections under 35 U.S.C. § 102

Claims 1-6 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,487,704 to Meyers et al. (hereinafter "Meyers"). The Examiner states that Meyers discloses every element of the claims.

Applicant respectfully traverses the rejection and requests that the Examiner reconsider the disclosure and applicability of Meyers in relation to the present invention. Independent claims 1 and 6 recite the steps of:

applying adhesive ...; placing the plurality of folded, flat, unitary blanks ... in at least one stack after the step of applying the adhesive; ... removing one of the folded, flat, unitary blanks from the at least one stack; and moving the removed ... blank from the folded, flat position to an assembled ... position (emphasis added).

Thus, the blanks are glued and folded before they are stacked. The blanks are stacked, folded and moved into the assembled position only after the blanks are removed from the stack.

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Meyers does not disclose the order of the steps of the claimed invention. Meyers folds, glues and erects his cartons before he places them in a stack. For example, Meyers states:

After the flat, glued shell has been turned, the clamp is opened to release the shell and deposit it in an unloading or pre-breaker station, FIGS. 17 and 18, where a pre-breaker cradle 36 ... [is] effective to squeeze the shell to erect it and then deliver the shell to the receiving or supply magazine 41 of the cartoner ...

Meyers, column 3, lines 48-54. Further,

adjustments ... are made to assure that ... the carton has indeed been erected to a square position and ... deliver the broken shell to the supply magazine of the cartoner ... [the] carton erected by the pre-breaker is shown in dashed line at EC, FIG. 21, and a broken carton beneath is shown being pushed into the cartoner magazine.

Meyers, column 12, lines 36-42 and 59-61. Furthermore, in Meyer's summary he states that his machine "forms the carton from a flat blank into a side seam glued shell and loads the shell into the magazine of a standard cartoning machine ..." Meyers, column 13, lines 18-20. Thus, Meyers is contrary to the steps as claimed in claims 1 and 6 because both claims recite that the blanks are glued, folded flat and stacked. The glued, flat blanks are not assembled to the upright position until after they are removed from the stack.

Applicant summarizes Meyers' process as follows. First, the blank is removed from a stack, folded and glued by the process illustrated in Figure 10. Next, the flat glued shell is turned and deposited at the pre-breaker station as illustrated in Figures 17, 18, and 21. At the pre-breaker station the shell is squeezed until it is erected. Only after it is erected is the shell stacked in the supply magazine to be supplied to the cartoner machine. *See*, Meyers, column 3, lines 36-55. Further, arms 254 and 256 in Figures 18 and 21 are referred to as the "erecting cradle". *See*, Meyers, column 11, lines 65-66.

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Applicant requests reconsideration by the Examiner in that Meyers does not anticipate the invention of claims 1 and 6. Claims 2-5 and 7 depend from claim 1 and 8 depends from claim 6 and therefore distinguish over the prior art for at least the same reasons discussed with respect to claims 1 and 6. Applicant respectfully requests that the above rejection be withdrawn.

CONCLUSION

In view of the above remarks, it is respectfully requested that the application be reconsidered and that all pending claims be allowed and the case passed to issue.

If there are any other issues remaining which the Examiner believes could be resolved by either a Supplemental Response or a Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned at the telephone number indicated below.

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Respectfully submitted,

By

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